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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/039,438

03/16/1998

WOO-SUP SHIN

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07/21/2008

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EXAMINER

ZERVIGON, RUDY

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCE

Ex parte WOO-SUP SHIN and JAE-GYU JEONG

Application 09/039,438
Technology Center 1700

Mailed: July 21, 2008

Before DALE M. SHAW *Chief Appeals Administrator*.

SHAW, *Chief Appeals Administrator*.

ORDER RETURNING UNDOCKETED APPEAL

This application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on April 4, 2008. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly,

the application is herewith being returned to the Examiner. The matter requiring attention prior to docketing is identified below.

On May 14, 2007, Appellants filed an Appeal Brief. A review of the file reveals that the “Summary of Claimed Subject Matter” does not map each independent claim to the specification, as set forth in 37 C.F.R.

§ 41.37(c)(1)(v) which states:

37 CFR § 41.37(c) states in part:

(c)(1) The brief shall contain the following items under appropriate headings and in the order indicated in paragraphs (c)(1)(I) through (c)(1)(x) of this section, except that a brief filed by an Appellant who is not represented by a registered practitioner need only substantially comply with paragraphs (c)(1)(I) through (c)(1)(iv) and (c)(1)(vii) through (c)(1)(x) of this section:

(v) ***Summary of claimed subject matter.*** A concise explanation of the subject matter defined in **each** of the **independent claims** involved in the appeal, which shall refer to the **specification by page and line number, and to the drawing**, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

Correction is required. MPEP § 1205.03 states:

When the Office holds the brief to be defective solely due to Appellant's failure to provide a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v), an entire new brief need not, and should not, be filed. Rather, a paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v) will suffice. Failure to timely respond to the Office's requirement will result in dismissal of the appeal. See MPEP § 1215.04 and §711.02(b).

Accordingly, it is ORDERED that the application is returned to the

Examiner to:

- 1) hold the Appeal Brief filed on May 14, 2007, defective;
- 2) notify Appellants to file a paper providing a correct summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v);
- 3) consider the paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v); and
- 4) for such further action as may be appropriate.

Application 09/039,438

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797

DMS/pgc

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